**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE C.V.RAMULU**

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**WRIT PETITION NO : 21341 of 1998**

Between:

B. Rajendra Reddy S/o. Sri M. Malla Reddy
R/o. Plot No. 7, Mallikarjun Nagar, Checkpost, R.R.Dist. 961 (AP).

**..... PETITIONER**

AND

1 Labour Court-I Hyderabad.
2 Depot manager, Andhra Pradesh State Road Transport Corporation
Falaknuma Bus Depot, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ order or directions calling for the records relating to I.D.No. 98/94 on the file of the 1st respondent herein and quash the Award dated 1.4.1998 passed therein with consequential directions to the 2nd respondent herein to reinstate the petitioner in service with continuity of service and attendant benefits.

**Counsel for the Petitioner: Mr.G.RAMACHANDRA RAO**

**Counsel for the Respondent No1 : GP FOR FINANCE & PLANNING.**

**Counsel for the Respondent No 2 : Mr. K.Harinath.**

**The Court made the following :**

**ORDER:**

This Writ petition is filed by the petitioner-workman being aggrieved by the Award passed by the Labour Court-I, Hyderabad in I.D.No.98/94 dated 01-04-1998.

According to the petitioner, he was appointed as a Conductor on casual basis with effect from 15-02-1989. Subsequently, his services were confirmed in the said post with effect from 22-03-1991. While so, when he was conducting the bus from Mekaguda to Afjalgunz on 07-03-1993, a check was exercised by the Officials of the 2nd respondent-Corporation at stage No.6, during which, it was found that the petitioner had collected excess amount from the passengers towards luggage charges. After conducting a detailed enquiry into the matter, he was removed from service by an Order dated 12-08-1993 of 2nd respondent. The appeal and revision filed against the said proceedings dated 12-08-1993, went in vain. Hence, he raised dispute before the Labour Court under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act'). The Labour Court after a detailed consideration of the evidence before it, found that the charges framed against the petitioner were proved in full and the punishment of removal from service was proportionate to that of the alleged misconduct and as such, no relief was granted to the petitioner.

Heard the learned counsel for the petitioner.

The learned counsel for the 2nd respondent contended that the petitioner had collected Rs.2.50 in excess towards luggage charges and likewise, against another passenger, he had collected Rs.7/- in excess for the luggage charges. According to the Management-2nd respondent, the petitioner had collected excess amount from the passengers towards luggage, whereas, in fact, the luggage charges were far less than what he had collected. Further, the said amounts that were found to be collected in excess of the luggage charges were returned to the respective passengers. Therefore, the petitioner has committed misconduct under Regulation 28(10) of the Andhra Pradesh State Road Transport Corporation Employees Conduct Regulations, 1963.

I have gone through the Award of the Labour Court.

The Labour Court considered each and every aspect in detail. However, it had not accepted the explanation offered by the petitioner, regarding the collection of excess of luggage charges from the respective passengers. The petitioner had stated that one passenger travelled from stage Timmapur to Nayapool and he had duly collected Rs.10/- and issued Rs.6/- denomination ticket to him and since he had no change for Rs.4/- to be refunded, he made an endorsement on the reverse of the ticket. In respect of another passenger travelling from Nandigama to Meer Alam Mandi, he had collected ticket fare and issued him passenger ticket as well as luggage ticket. There was no passenger in the bus travelling without ticket. The said bus was checked by two ticket-checking Officials of the Corporation at Stage No.6 and the Officials issued a charge memo alleging that the petitioner failed to issue luggage ticket to the passengers travelling from Timmapur to Nayapool and as such, he has not committed any offence as alleged by the Management-2nd respondent. While considering this aspect, the Labour Court was of the view that even if due to paucity of change, the petitioner could not return change to the passengers, there was no explanation as to whom he issued luggage tickets when he was not actually carrying luggage weighing 40 Kgs. Further, insofar as the second charge was concerned, the statement of the petitioner that due to paucity of change, he could not give the excess amount collected by him, was not believable, for, the amount paid by the passenger was only Rs.17/- and even the petitioner issued tickets for Rs.10/-. The remaining Rs.7/- should have been collected by him.

As seen from the above, it is not the case of the petitioner that he failed to issue passenger tickets or there were any passengers without tickets in the bus. So far as the luggage ticket is concerned, it is not the case of the Management-2nd respondent that he failed to collect the requisite fee for the transportation of luggage of the said two passengers.

It is the case of the Management-2nd respondent that the petitioner had collected excess amount than what was required for the purpose of issuing luggage tickets for the luggage being carried on by the respective passengers. Absolutely, there was no evidence put forth by the Management-2nd respondent to show that those Rs.7/- and Rs.6/- were collected in excess and for those amounts, which were said to have been collected in excess for the luggage, neither the concerned passengers were

examined nor their statements were properly considered either by the Disciplinary Authority or by the Labour Court. Even otherwise, I am of the considered opinion that the punishment of removal from service imposed on the petitioner-workman is excessive and is not proportionate to the misconduct alleged against him, though the misconduct was not proved. I am of the view that the Labour Court while exercising its powers under Section 11-A of the Act, has not considered the gravity of the misconduct and as such, erred in rejecting the application of the petitioner under Section 2-A(2) of the Act.

In view of the above, the impugned Award passed by the Labour Court is quashed. The removal Order passed by the Management-2nd respondent is set aside and the Management-2nd respondent is directed to reinstate the petitioner into service as a Conductor with continuity of service but without back wages and attendant benefits.

The Writ petition is accordingly allowed. No costs.

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( C.V. RAMULU,J )

26-07-2004.

TSY

ASSISTANT REGISTRAR

// True Copy //

SECTION OFFICER

To

1 The Labour Court-I

Hyderabad. ( with records)

2 The Depot manager, APSRTC, Falaknuma Bus Depot, Hyderabad.

3. Two C.Cs to G.P. FOR FINANCE & PLANNING, High Court, Hyderabad.

4. Two CD copies.